



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC DISCLOSURE

FROM: OFFICE OF THE COMMISSION SECRETARY *D.H.*

DATE: May 4, 2006

SUBJECT: COMMENT: DRAFT AO 2006-08

Transmitted herewith is a late submitted comment by Mr. Craig Engle on behalf of Mr. Matthew Brooks regarding the above-captioned matter.

Proposed Advisory Opinion 2006-08 is on the agenda for Thursday, May 4, 2006.

Attachment

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Arent Fox
ATTORNEYS AT LAW

May 3, 2006

2006 MAY -4 A 9:55

Federal Election Commission
Office of the Secretary
999 E Street, NW
Washington, DC 20046

Craig Engle
202.775.5791 DIRECT
202.857.6395 FAX
engle.craig@arentfox.com

Dear Madam Secretary:

This letter is a comment to Draft Advisory Opinion 2006-08, placed on the Commission agenda for May 4, 2006, submitted pursuant to the Commission's procedures by the Requestor, through counsel.

The Requestor is pleased with the new Draft's better understanding of the Corporation's business model and its relation to precedent. There are, however, two modifications we request the Commission consider.

1. The Corporation Will Not Author Any Analysis Forwarded to Subscribers.

The Draft states that "[u]nder no circumstances will the Corporation *create* any of the information or analysis that is forwarded to subscribers." Draft AO 2006-08 page 4, lines 14-15, emphasis added. As an aggregator and disseminator of information relevant to its customer base, the Corporation will, by necessity, be *creating* some of the information that is forwarded on to its subscribers. The Corporation does not intend to *author* any analysis to be forwarded on to its subscribers. Accordingly, we request that sentence in the Draft be modified to more precisely restate the facts.

2. It is Permissible to Forward Contribution Solicitations.

The Draft states, "forwarding contribution suggestions from political committees would constitute impermissible solicitations to persons outside the restricted class of the Corporation." The Draft continues to misapprehend the function of the Corporation and the services it will be providing. The restricted class analysis is inapposite because these communications are not being sent to employees or executive or administrative personnel, but to customers of the Corporation who have paid the Corporation to relay these very messages. The Draft's citation to 441a(a)(7)(B)(iii) is also inapposite. That statute is designed to prevent an individual or corporation from subsidizing a campaign's operating expenditures by merely reprinting a candidate's promotional materials and thus giving them a wider audience. It is clearly inapplicable to the services to be provided by the proposed Corporation.

Further, this cannot constitute impermissible corporate facilitation because individuals, and not a corporation, are paying for the information. More importantly, the ordinary course of business the Corporation is engaged in is the business of helping donors make political contributions.

Interestingly, the Draft notes, "[i]f the Corporation were to receive solicitations directed to individual subscribers, and not to the Corporation itself, it would be permitted to forward those solicitations to the proper recipient. This would be a service provided solely to the individual for which the Corporation was properly compensated." Draft AO 2006-08 page 7, footnote 4. If it is permissible to forward one individual's solicitation to one paying subscriber, it should be equally permissible for the Corporation to forward any solicitation it receives to all its equally-paying subscribers.

In conclusion, the Corporation requests the Commission reconsider the Draft's answer to question 4 in light of the arguments above and allow the Corporation to engage in the service its potential customers have requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Engle", with a stylized, flowing script.

Craig Engle